



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OPC FF DRI

Introduction

This hearing was convened in response to cross-applications by the parties pursuant to the *Residential Tenancy Act* for Orders as follows:

Landlord:

- an order of possession pursuant to section 55;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

Tenant:

- a determination regarding their dispute of an additional rent increase by the landlord pursuant to section 43;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing and acknowledged service of their respective applications for dispute resolution including all evidence before me. Both parties were given a full opportunity to be heard, to present evidence and to make submissions.

Issues

Is the landlord entitled to an order of possession?

Is the landlord entitled to recover the filing fee for her application from the tenant?

Is the tenant entitled to a determination regarding dispute of an additional rent increase?

Is the tenant entitled to recover the filing fee for his application from the landlord?

Background and Evidence

A written tenancy agreement was entered into and signed by the parties on September 15, 2015. A copy of the written agreement was provided on file. The tenancy began on October 15, 2015 with a monthly rent of \$950.00 payable on the 1st day of each month. The tenant paid a security deposit of \$475.00 at the start of the tenancy which the landlord continues to hold. The written agreement was for a fixed term lease which expired on June 1, 2016. Both parties initialed the agreement indicating that at the end of the lease the tenancy is ended and the tenant must vacate the rental unit. A note in the tenancy agreement indicates that a long term tenancy will be negotiable on the end date.

The landlord argues that the tenancy was a fixed term tenancy which ended on June 1, 2016 as per the signed agreement. The landlord tried to negotiate a new lease with the tenant on April 1, 2016 but the parties failed to reach or sign a new agreement. On April 21, 2016, the landlord communicated to the tenant by way of a written letter that she will not be renewing the lease which expires on June 1, 2016 and that the tenant would be required to vacate on this date.

The tenant argues that the original lease was not a fixed term lease as it contained an addendum stating a long term lease would be negotiable. The tenant argues that the landlord tried to raise the rent by more than the allowable rent increase permitted under the Act by trying to get him to sign a new lease.

Analysis

Pursuant to Section 44 of the Act, a tenancy ends if the tenancy agreement is a fixed term tenancy agreement that provides the tenant will vacate the rental unit on the date specified as the end of the tenancy.

In this case, the written agreement entered into and signed by both parties stated that it was for a fixed length of time ending on June 1, 2016. Both parties initialed the agreement indicating that at the end of the lease the tenancy is ended and the tenant must vacate the rental unit. I do not accept the tenant's argument that the tenancy was not for a fixed term because it included a statement that a long term tenancy will be negotiable on end date. This statement simply means that the original lease was up for negotiation and does not form a new contract. The parties entered into negotiations for a new lease but failed to reach or sign a new agreement. When negotiations failed, the landlord clearly communicated to the tenant that the lease will not be renewed at the

end of the fixed term. The tenant knew the terms of the tenancy agreement and agreed to those terms when he signed the agreement.

I find this tenancy ended at the end of the fixed term lease on June 1, 2016 and I grant the landlord an order of possession pursuant to section 55 of the Act.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application from the tenant. The landlord is permitted to deduct this amount from the security deposit in full satisfaction of the monetary award.

As the tenancy has ended and an actual rent increase was not implemented, I dismiss the tenants claim requesting a determination on this issue.

As the tenant was not successful in this application, I find that the tenant is not entitled to recover the \$100.00 filing fee paid for this application from the landlord.

Conclusion

I dismiss the tenant's application without leave to reapply.

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Dated: June 03, 2016

Residential Tenancy Branch